

## REMARKS

### CLAIM REJECTIONS - 35 USC § 101

The Office action rejected claims 1 and 19 under 35 U.S.C. § 101 as not being limited to tangible embodiments. Applicant respectfully submits the Office action has erroneously applied the “tangibility” requirement for at least the reasons set forth below.

The “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” issued by the USPTO (OG Notices: 22 November 2005) states:

**The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must ... set forth a practical application ... to produce a real-world result.** Benson, 409 U.S. at 71-72, 175 USPQ at 676-77 (invention ineligible because had “no substantial practical application.”). “[A]n application of a law of nature or mathematical formula to a . . . process may well be deserving of patent protection.” Diehr, 450 U.S. at 187, 209 USPQ at 8 (emphasis added); see also Corning, 56 U.S. (15 How.) at 268, 14 L.Ed. 683 (“It is for the discovery or invention of some practical method or means of producing a beneficial result or effect, that a patent is granted . . .”). **In other words, the opposite meaning of “tangible” is “abstract.”** (Emphasis added)

Claim 1 recites, in part:

code to be executed by a computing device; and  
a signature that attests to the authenticity of the code, the signature encrypted such that the computing device decrypts the signature using a key embedded in a chipset of the computing device.

Applicant submits claims 1 and 19 are tangible inasmuch as they are not abstract and they produce a real-world result (e.g., the signature is encrypted such that the computing device decrypts the signature using a key embedded in a chipset of the computing device.” Therefore, Applicant submits claims 1 and 19 recite statutory subject matter and respectfully requests withdrawal of the rejection under 35 U.S.C. § 101.

#### CLAIM REJECTIONS - 35 USC § 112

Claims 1 and 19 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant submits claims 1 and 19 are not indefinite for at least the reasons set forth below.

Specifically, the Office action states that claims 1 and 19 are indefinite because they “do not set forth any steps involved in the method/process” and that “it is unclear what method/process applicant is intending to encompass.” This quoted MPEP form paragraph (7.34.06) applies to method claims. Given that claims 1 and 19 are not method claims, Applicant submits the rejection under 35 U.S.C. § 112, second paragraph has been misapplied. Claims 1 and 19 are definite for at least the reason that they particularly point out and distinctly claim a code module having code to be executed by a computing device and a signature that attests to the authenticity of the code, the signature encrypted such that the computing device decrypts the signature using a key embedded in a chipset of the computing device. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

#### CLAIM REJECTIONS - 35 USC § 103

The Office action rejected claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,401,208 issued to Davis et al. (*Davis*) in view of U.S. Patent Publication No. 2002/0150252 attributed to Wong (*Wong*). Applicant submits claims 1-20 are not obvious in view of *Davis* and *Wong* for at least the reasons set forth below.

### Claims 1 and 11

Claim 1 is directed to a code module comprising code and a signature encrypted such that a computing device decrypts the signature using *a key embedded in a chipset* of the computing device. Claim 11, as amended, recites similar limitations.

The Office action admits that *Davis* does not teach or disclose decrypting the signature using a key embedded in a chipset of the computing device. Applicant agrees.

*Wong* was cited as teaching decrypting the signature using a key embedded in a chipset of the computing device. However, the cited portion of *Wong* discusses a decryption key circuit for decrypting the configuration of an FPGA. See Abstract and paragraph [0031]. *Wong* does not teach or disclose decrypting a signature of a code module using a key embedded in a chipset of a computing device. Thus, *Wong* fails to cure the deficiencies of *Davis*. Therefore, Applicant submits claims 1 and 19 are not obvious in view of *Davis* and *Wong*.

Claims 2-10 depend from claim 1. Claims 12-18 depend from claim 11. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant respectfully submits claims 2-10 and 12-18 are not obvious in view of *Davis* and *Wong* for at least the reasons discussed above with respect to claims 1 and 11.

### Claim 19

Claim 19 as amended is directed to machine readable medium comprising data pages, code pages, and a value encrypted such that a computing device decrypts the value *using an asymmetric key embedded in a chipset* of the computing device. The Office action states that *Davis* does not teach or disclose a value that is decrypted using an asymmetric key embedded in a chipset. Applicant agrees. As discussed above with

respect to claims 1 and 11, *Wong* does not teach or disclose decrypting a signature of a code module using a key embedded in a chipset of a computing device. Similarly, *Wong* fails to teach or disclose a value encrypted such that a computing device decrypts the value *using an asymmetric key embedded in a chipset* of the computing device, as recited in claim 19. Thus, Applicant submits claim 19 is not rendered obvious by *Davis* and *Wong*. Claim 20 depends from claim 19 and is not obvious for at least the same reasons as claim 19.

#### CONCLUSION

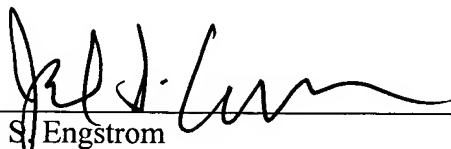
For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 1-20 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: \_\_\_\_\_

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